

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DataTreasury Corporation §
Plaintiff §

v. §

**CIVIL ACTION NO: 2:13-cv-431
JURY DEMANDED**

**Fiserv, Inc.; Citizens 1st Bank; East Texas
Financial Corporation; Citizens Bank;
Henderson Federal Savings Bank; Hull State
Bank; Lamar Bancorporation, Inc.; Lamar
National Bank; Carlile Bancshares, Inc.;
Northstar Bank of Texas; Texas Peoples
National Bancshares, Inc.; Peoples Bank;
Joaquin Bankshares, Inc.; Texas State Bank;
Henderson Citizens Bancshares, Inc;
The East Texas National Bank of Palestine
(merged into Citizens
Bancshares, Inc.); First Liberty
National Bancshares, Inc.; The First
Liberty National Bank; ViewPoint
Financial Group, Inc.; ViewPoint Bank, N.A.;
DirecTex Holding Corp.; Gladewater
National Bank; Huntington Bancshares, Inc;
Huntington State Bank; Trenton
Bankshares, Inc.; The First National Bank
of Trenton; Pilot Point Bancorp, Inc.;;
PointBank; Greater Southwest Bancshares,
Inc.; Bank of the West; JLL Associates G.P.
FCH, LLC; First Community Bank, N.A.;
Heritage Bancorp, Inc.; Heritage Bank;
IBT Bancorp, Inc.; Independent Bank of
Texas; The Landrum Company; Landmark
Bank N.A.; Chisholm Bancshares, Inc.;
North Texas Bank, National Association;
The First National Bank of Kemp;
Valliance Financial Corp.; Valliance Bank;
AFNB Holdings, Inc.; American First
National Bank; FNB Financial Services, Inc.;
First Texoma National Bank
FNB Company; The First National
Bank of Livingston; WCM Holdings, Inc.;
Veritex Community Bank; and
Computer Service Professionals, Inc.**

Defendants §

FIRST AMENDED ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

I. BACKGROUND

1. The patents in suit – U.S. Patent No. 5,910,988 (“the ’988 Patent”) and 6,032,137 (“the ’137 Patent”) (collectively the “Ballard Patents”) – are among the most thoroughly validated and valuable patents in the United States. The Ballard Patents have been credited as being foundational to modern day, image-based check processing, enabling technological improvements that save the banking industry billions of dollars annually.

2. A vast majority of the top twenty-five banking institutions in America – including Bank of America, Citibank, J.P. Morgan Chase Bank, Wells Fargo Bank, and many others – have licensed the Ballard Patents in recognition of the significant contribution of the Ballard Patents to modern image-based check processing, including prime pass image capture, branch capture, and remote deposit capture processes. It has been publicly reported that these banks have collectively paid more than \$350 million to license the Ballard Patents.

3. Industry leading J.P. Morgan Chase Bank has agreed to a Consent Judgment, confessing in Federal Court that the Ballard Patents are valid, enforceable, and infringed. Other large financial institutions such as PNC Bank have made similar confessions of validity in open court.

4. Dozens of prior litigants have spent hundreds of millions of dollars attempting to invalidate the Ballard Patents or to prove them unenforceable. Despite this concerted joint effort by the banking industry, not a single bank has ever prevailed against the Ballard Patents.

5. The only bank in the nation that has been sued for infringing the Ballard Patents and then refused to pay for a license to use the patents all the way through a jury trial was U.S. Bank. In March 2010, U.S. Bank was found guilty of willfully infringing the Ballard Patents by a federal jury, and subsequently ordered to pay over \$50 million dollars for its willful infringement of the patents. The same federal jury also unanimously found that the Ballard Patents were not invalid.

6. The Ballard Patents have been re-examined by the United States Patent and Trademark Office (“USPTO”), to determine their validity. Ultimately, each and every claim of the Ballard Patents was upheld in full, and issued as valid for a second time by the USPTO.

7. The Ballard Patents have had press coverage ranging from *The Wall Street Journal* and *The Washington Post* to industry publications such as *The American Banker*. Claudio Ballard, inventor of the Ballard Patents was recognized as the 2010 Inventor of the Year by the United States Business and Industry Council in Washington, D.C.

8. The United States Congressional Budget Office has independently determined the value of the Ballard Patents to be more than \$1 billion.

9. Despite this unimpeachable validity, significant financial value, and widespread recognition as the cornerstone intellectual property underlying modern image-based check processing, the Ballard Patents are being willfully infringed by one or more of the Defendants in this case. DataTreasury files this lawsuit to continue to protect its intellectual property and prevent these Defendants from continuing to willfully violate DataTreasury’s intellectual property rights and the U.S. patent laws.

10. Defendant Fiserv, Inc. is in the business of providing banking systems and services to entities such as the other defendants in this lawsuit. Based on information and belief,

as part of those banking system and service offerings, Defendant Fiserv provides check capture and processing systems and services, including but not limited to those offered under its Source Capture Solutions[®] brand name. By way of example only, under its Source Capture Solutions[®] brand name, Defendant Fiserv offers a variety of “remote deposit” capture options, that deliver “precise image, data capture and security requirements for each capture site whether deposits are taken at the branch front counter or ATM, or received from a customer’s business, home or smart phone.”

11. By way of example and without limitation, Defendant Fiserv offers capture and processing solutions services and systems, including those offered under the Source Capture Solutions[®] brand name, including but not limited to (a) Branch Deposits (*i.e.*, Branch Source Capture[™], Teller Source Capture[™], and ATM Source Capture[™]); (b) Retail Deposits (*i.e.*, Consumer Source Capture[™], Mobile Source Capture[™]); (c) Commercial Deposits (*i.e.*, Merchant Source Capture[™], Remittance Coupon Source Capture[™]); and (d) Back Office Solutions (*i.e.*, Regional Source Capture, Inclearings Source Capture[™], Deposit Returns Source Capture[™]) (collectively referred to hereafter as the “Fiserv Accused Instrumentalities”). Branch Deposits enable the capture of images at the branch back counter, at the branch teller stations, or at a Banking Defendants’ image enabled ATM machine. The Retail Deposit solutions enable Bank Defendants’ customers to make deposits at any time by allowing those customers to capture images of checks at non-bank locations such as their home or office using check scanners or mobile devices such as a smart phone. Similarly Commercial Deposit solutions enable business customers to deposit checks by capturing images of checks at non-bank locations, such as their offices or stores, using check scanners. Back Office Solutions offers higher volume check capture solutions to allow customers to deposit and/or clear checks.

12. By way of example only and without limitation, similar to Defendant Fiserv, Defendant Computer Service Professionals, Inc. (“CSPI”) is in the business of providing banking systems and services to entities such as the other defendants in this lawsuit. Based on information and belief, as part of those banking system and service offerings, Defendant CSPI offers capture and processing solutions services and systems, including those offered under the description “Item Capture & Image Processing,” the “Branch Capture Module,” “e~deposit Merchant Capture Solution,” “Aurora Remittance,” and “Aurora Mobile Banking” (collectively referred to hereafter as the “CSPI Accused Instrumentalities”). The CSPI Accused Instrumentalities enable the capture of images at the branch back counter, at the branch teller stations, at the customer location, or at locations serving lockbox and remittance customers.

13. Throughout this pleading, the phrase “Accused Instrumentalities,” when used without the modifiers “Fiserv” or “CSPI,” refers to the Fiserv Accused Instrumentalities, the CSPI Accused Instrumentalities, and any and all similar products or services regardless of the specific name or description by which they are known. The Fiserv Accused Instrumentalities and CSPI Accused Instrumentalities are provided as examples of products and/or services that DataTreasury contends infringe the Ballard Patents based on its current understanding and belief and are in no way meant to be a limitation on the scope of infringing products or services made, used, sold, or offered by Defendants.

14. Each of the Accused Instrumentalities can be deployed individually or in combination and are listed here as examples of the systems and services offered by Defendants Fiserv and CSPI to the Banking Defendants, who in turn offer some or all of them to their banking customers. The following allegations apply equally, however, to any and all similar

systems and services now offered or ever offered by Defendants regardless of the specific brand names or descriptions applied to the systems and services.

II. THE PARTIES

15. The allegations of paragraphs 1-14 above are incorporated by reference as if fully set forth herein.

16. Plaintiff **DataTreasury Corporation** ("DataTreasury") is a Delaware corporation that maintains its principal place of business at 2301 W. Plano Parkway, Ste. 106, Plano, Texas 75074.

17. Defendant **Fiserv, Inc.** ("Defendant Fiserv") is a Delaware corporation that maintains its principal place of business at 255 Fiserv Drive, Brookfield, Wisconsin 53045. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

18. Defendant **Citizens 1st Bank** is a Texas state-chartered bank with its principal place of business at 2001 ESE Loop 323, Tyler, Texas 75701. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

19. Defendant **East Texas Financial Corporation** is a Texas corporation with its principal place of business at 301 E. Main Street, Kilgore, Texas 75662. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

20. Defendant **Citizens Bank** is a subsidiary of East Texas Financial Corporation with its principal place of business located at 301 E. Main Street, Kilgore, Texas 75662. This defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

21. Defendant **Henderson Federal Savings Bank** is a Texas state-chartered bank with its principal place of business at 130 N. Marshall, Henderson, Texas 75652. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

22. Defendant **Hull State Bank** is a Texas state-chartered bank with its principal place of business at 100 Walnut Street, Hull, Texas 77564. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

23. Defendant **Lamar Bancorporation, Inc.** is a Texas corporation with its principal place of business at 200 S. Collegiate Drive, Paris, Texas 75460. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

24. Defendant **Lamar National Bank** is a subsidiary of Lamar Bancorporation, Inc. with its principal place of business located at 200 S. Collegiate Drive, Paris, Texas 75460. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

25. Defendant **Carlile Bancshares, Inc.** is a Texas corporation with its principal place of business at 201 Main St., Ste. 1320, Ft. Worth, Texas 76102. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

26. Defendant **Northstar Bank of Texas** is a subsidiary of Carlile Bancshares, Inc. with its principal place of business located at 400 North Carroll Blvd., Denton, Texas 76201. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

27. Defendant **Texas Peoples National Bancshares, Inc.** is a Texas corporation with its principal place of business at 35 South Plaza, Paris, Texas 75461. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

28. Defendant **Peoples Bank** is a subsidiary of Texas Peoples National Bancshares, Inc. with its principal place of business located at 35 South Plaza, Paris, Texas 75460. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

29. Defendant **Joaquin Bankshares, Inc.** is a Texas corporation with its principal place of business at 304 U.S. Hwy. 69 South, Huntington, Texas 75949. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

30. Defendant **Texas State Bank** is a subsidiary of Joaquin Bankshares, Inc. with its principal place of business located at 120 South Preston St., Joaquin, Texas 75954. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

31. Defendant **Henderson Citizens Bancshares, Inc.** is a Texas corporation with its principal place of business at 201 West Main Street, Henderson, Texas 75652. This Defendant does business in Texas and this District and can be served with process through its Registered Agent for Service of Process, Kenneth Black, 201 West Main Street, Henderson, Texas 75652.

32. Defendant **The East Texas National Bank of Palestine** has its principal place of business located at 207 W. Spring Street, Palestine, Texas 75801. It is now merged into and operated as part of **Citizens National Bank**, a subsidiary of Henderson Citizens Bancshares, Inc.

Citizens National Bank has its principal place of business located at 201 West Main Street, Henderson, Texas 75652. It does business in Texas and this District and can be served with process through its Registered Agent for Service of Process, Kenneth Black, 201 West Main Street, Henderson, Texas 75652.

33. Defendant **First Liberty National Bancshares, Inc.** is a Texas corporation with its principal place of business at 1900 Sam Houston Avenue, Liberty, Texas 77575. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

34. Defendant **The First Liberty National Bank** is a subsidiary of First Liberty National Bancshares, Inc. with its principal place of business located at 1900 Sam Houston Avenue, Liberty, Texas 77575. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

35. Defendant **ViewPoint Financial Group, Inc.** is a Maryland corporation with its principal place of business at 1309 West 15th Street, Ste. 300, Plano, Texas 75075. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

36. Defendant **ViewPoint Bank, N.A.** is a subsidiary of ViewPoint Financial Group with its principal place of business located at 1309 West 15th Street, Suite 300, Plano, Texas 75075. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

37. Defendant **DirectTex Holding Corp.** is a Texas corporation with its principal place of business at 7891 Highway 271 North, Tyler, Texas 75708. This Defendant does

business in Texas and this District and has been served and will file responsive pleadings in due course.

38. Defendant **Gladewater National Bank** is a subsidiary of DirecTex Holding Corp. with its principal place of business located at 678 North Main Street, Gladewater, Texas 75647. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

39. Defendant **Huntington Bancshares, Inc.** is a Texas corporation with its principal place of business at 208 US Hwy. 69, Huntington, Texas 75949. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

40. Defendant **Huntington State Bank** is a subsidiary of Huntington Bancshares, Inc. with its principal place of business located at 208 South US Hwy. 69, Huntington, Texas 75949. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

41. Defendant **Trenton Bankshares, Inc.** is a Texas corporation with its principal place of business at 106 Hamilton St., Trenton, Texas 75490. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

42. Defendant **The First National Bank of Trenton** is a subsidiary of Trenton Bankshares, Inc. with its principal place of business located at 106 Hamilton Street, Trenton, Texas 75490. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

43. Defendant **Pilot Point Bancorp, Inc.** is a Texas corporation with its principal place of business at 200 S. Hwy. 377, Pilot Point, Texas 76258. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

44. Defendant **PointBank** is a subsidiary of Pilot Point Bancorp, Inc. with its principal place of business located at 200 South Hwy. 377, Pilot Point, Texas 76258. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

45. Defendant **Greater Southwest Bancshares, Inc.** is a Texas corporation with its principal place of business at 108 West Northwest Hwy., Grapevine, Texas 76051. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

46. Defendant **Bank of the West** is a subsidiary of Greater Southwest Bancshares, Inc. with its principal place of business located at 108 West Northwest Hwy., Grapevine, Texas 76051.. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

47. Defendant **JLL Associates G.P. FCH, L.L.C.** is a Delaware corporation with its principal place of business at 450 Lexington Avenue, 31st Flr., New York, NY 10017. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

48. Defendant **First Community Bank, NA** is a subsidiary of JLL Associates G.P. FCH, L.L.C. with its principal place of business located at 3 Sugar Creek Center Blvd., Ste. 200, Sugar Land, Texas 77478. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

49. Defendant **Heritage Bancorp, Inc.** is a Texas corporation with its principal place of business at 1850 Pearland Pkwy., Pearland, Texas 77581. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

50. Defendant **Heritage Bank** is a subsidiary of Heritage Bancorp, Inc. with its principal place of business located at 1850 Pearland Prkwy., Pearland, Texas 77581. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

51. Defendant **IBT Bancorp, Inc.** is a Texas corporation with its principal place of business at 4300 N. Beltline Rd., Irving, Texas 75038. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

52. Defendant **Independent Bank of Texas** is a subsidiary of IBT Bancorp, Inc. with its principal place of business located at 4300 N. Belt Line Road, Irving, Texas 75038. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

53. Defendant **The Landrum Company** is a Missouri corporation with its principal place of business at 801 East Broadway, Columbia, MO 65201. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

54. Defendant **Landmark Bank, NA** is a subsidiary of The Landrum Company with its principal place of business located at 801 East Broadway, Columbia, MO 65201. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

55. Defendant **Chisholm Bancshares, Inc.** is a Texas corporation with its principal place of business at 661 W. Thompson St., Decatur, Texas 76234. This Defendant does

business in Texas and this District and has been served and will file responsive pleadings in due course.

56. Defendant **North Texas Bank, National Association** is a subsidiary of Chisholm Bancshares, Inc. with its principal place of business located at 661 W. Thompson Street, Decatur, Texas 76234. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

57. Defendant **The First National Bank of Kemp** is a Texas state-chartered bank with its principal place of business at 100 State Hwy. 274 South, Kemp, Texas 75143. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

58. Defendant **Valliance Financial Corp.** is an Oklahoma corporation with its principal place of business at 1601 N.W. Expressway, Ste. 100, Oklahoma City, Oklahoma 73118. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

59. Defendant **Valliance Bank** is a subsidiary of Valliance Financial Corp. with its principal place of business located at 1601 N.W. Expressway, Ste. 100, Oklahoma City, Oklahoma 73118. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

60. Defendant **AFNB Holdings, Inc.** is a Nevada corporation with its principal place of business at 9999 Bellaire, Houston, Texas 77036. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

61. Defendant **American First National Bank** is a subsidiary of AFNB Holdings with its principal place of business located at 9999 Bellaire, Houston, Texas 77036. This

Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

62. Defendant **FNB Financial Services, Inc.** is an Oklahoma corporation with its principal place of business at 220 W. Main Street, Durant, Oklahoma 74701. This Defendant does business in Texas and this District and has been served and will file responsive pleadings in due course.

63. Defendant **First Texoma National Bank** is a subsidiary of FNB Financial Services, Inc. with its principal place of business located at 220 W. Main Street, Durant, Oklahoma 74701. This Defendant does business in Texas and this District and can be served with process by serving any officer, member or managing agent at 220 W. Main Street, Durant, Oklahoma 74701.

64. Defendant **FNB Company** is a Texas corporation with its principal place of business at 2121 Highway 190 West, Livingston, Texas 77351. This Defendant does business in Texas and this District and can be served with process through its Registered Agent for Service of Process, A. C. Evans, 2121 Highway 190 West, Livingston, Texas 77351.

65. Defendant **The First National Bank of Livingston** is a subsidiary of FNB Company with its principal place of business located at 2121 Highway 190 West, Livingston, Texas 77351. This Defendant does business in Texas and this District and can be served with process through its Registered Agent for Service of Process, A. C. Evans, 2121 Highway 190 West, Livingston, Texas 77351.

66. Defendant **WCM Holdings, Inc.** is a Texas corporation with its principal place of business at 3412 Caruth Blvd., Dallas, Texas 75225. This Defendant does business in Texas and

this District and can be served with process through its Registered Agent for Service of Process, William C. Murphy, 3412 Caruth Blvd., Dallas, Texas 75225.

67. Defendant **Veritex Community Bank** is a subsidiary of WCM Holdings, Inc. with its principal place of business located at 8214 Westchester Drive, Suite 400, Dallas, Texas 75225. This Defendant does business in Texas and this District and can be served with process by serving any officer, member or managing agent at 8214 Westchester Drive, Ste. 400, Dallas, Texas 75225.

68. Defendant **Computer Service Professionals, Inc.** is a Delaware corporation with its principal place of business located at 805 W. Stadium Blvd., Jefferson City, Missouri 65109. This Defendant does business in Texas and this District and can be served with process by serving its Texas registered agent, National Registered Agents, Inc., 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136.

69. Defendants Citizens 1st Bank, East Texas Financial Corporation, Citizens Bank, Henderson Federal Savings Bank, Hull State Bank, Lamar Bancorporation, Inc., Lamar National Bank, Carlile Bancshares, Inc., Northstar Bank of Texas, Texas Peoples National Bancshares, Inc., Peoples Bank, Joaquin Bankshares, Inc., Texas State Bank, Henderson Citizens Bancshares, Inc., The East Texas National Bank of Palestine (merged into and now operated as part of Citizens National Bank), First Liberty National Bancshares, Inc., The First Liberty National Bank, ViewPoint Financial Group, Inc., ViewPoint Bank, N.A., DirecTex Holding Corp., Gladewater National Bank, Huntington Bancshares, Inc., Huntington State Bank, Trenton Bankshares, Inc., The First National Bank of Trenton, Pilot Point Bancorp, Inc., PointBank, Greater Southwest Bancshares, Inc., Bank of the West, JLL Associates G.P. FCH, L.L.C., First Community Bank, NA, Heritage Bancorp, Inc., Heritage Bank, IBT Bancorp, Inc., Independent

Bank of Texas, The Landrum Company, Landmark Bank, NA, Chisholm Bancshares, Inc., North Texas Bank, National Association, The First National Bank of Kemp, Valliance Financial Corp., Valliance Bank, AFNB Holdings, Inc., American First National Bank, FNB Financial Services, Inc., First Texoma National Bank, FNB Company, The First National Bank of Livingston, WCM Holdings, Inc. and Veritex Community Bank are hereinafter referred to collectively as the “Banking Defendants”.

III. JURISDICTION AND VENUE

70. The allegations of paragraphs 1-69 above are incorporated by reference as if fully set forth herein.

71. This action for patent infringement arises under the patent laws of the United States, Title 35 of the United States Code. The Court's jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271 *et seq.*, 28 U.S.C. § 1332, and 28 U.S.C. § 1338.

72. Personal jurisdiction exists generally over Defendants pursuant to 28 U.S.C. § 1391 because they have sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within this District. Personal jurisdiction also exists specifically over Defendants because of Defendants’ conduct in making, using, selling, offering to sell, and/or importing, directly, contributorily, and/or by inducement, infringing systems, products, and services within the State of Texas and within this district. At least one of each of those products and services sold in this District in an infringing manner is set forth in this Complaint. In addition, upon information and belief Defendants have provided systems and services in this District separately and independently, and with or for other infringing companies

that were Defendants in related litigation in the United States District Court for the Eastern District of Texas.

73. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), (c), and (d), as well as 28 U.S.C., § 1400(b) for the reasons set forth above and below.

74. On information and belief, each of the Defendants identified in paragraphs 18-67, either directly or through their parent-subsidary relationships, are current users of Defendant Fiserv's and/or Defendant CSPI's check processing systems and services including by way of example only and without limitation at least one or more of the Accused Instrumentalities.

75. Each of the Banking Defendants are subject to personal jurisdiction, in addition to the reasons set forth above and below, because each Banking Defendant engages in infringing activities by using within this district at least one of the Accused Instrumentalities provided by Defendants Fiserv and/or CSPI. Each Defendant has authorized, participated in, or facilitated transactions occurring in whole or in part within this District that, in whole or in part, infringe the '988 and '137 Patents asserted herein.

IV. JOINDER PUSUANT TO 35 U.S.C. § 299

76. Joinder is proper under 35 U.S.C. § 299

77. Joinder is proper under and in accordance with 35 U.S.C. § 299(a) because (1) DataTreasury is asserting its right to relief from Defendants for patent infringement jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the using, importing into the Unites States, offering for sale, or selling the same accused product or process, and (2) questions of fact common to all defendants will arise in this action.

78. Upon information and belief, each of the Banking Defendants identified in paragraphs 18-67 are current or former users of the Accused Instrumentalities, which are made, used, sold, or offered for sale by Defendants Fiserv and/or CSPI. Upon information and belief, the Defendants' use of the Accused Instrumentalities infringe one or more claims of the '988 Patent and '137 Patent jointly, severally, or in the alternative. Because Defendants use the Accused Instrumentalities, which upon information and belief rely on the same underlying platform, systems, and services, questions of fact common to all Defendants will arise in this action.

V. PATENT INFRINGEMENT

79. The allegations of paragraphs 1-78 above are incorporated by reference as if fully set forth herein.

80. This is an exceptional case within the meaning of 35 U.S.C. §285.

81. DataTreasury is the owner as assignee of all rights, title and interest in and under the '988 Patent (attached as **Exhibit A**), which duly and legally issued on June 8, 1999, with Claudio Ballard as the named inventor, for an invention in remote image capture with centralized processing and storage. This patent went through re-examination with the United States Patent and Trademark Office ("USPTO") and was duly and legally reissued under the '988 Patent on October 23, 2007. Despite surviving a previous reexamination and a previous jury trial, an unidentified party has requested another reexamination of some of the claims of the '988 Patent. That reexamination is currently ongoing.

82. DataTreasury is the owner as assignee of all rights, title, and interest in and under the '137 Patent (attached as **Exhibit B**), which duly and legally issued on February 29, 2000, with Claudio Ballard as the named inventor, for an invention in remote image capture with

centralized processing and storage. Similar to the '988 Patent, the '137 Patent went through re-examination with the USPTO and was duly and legally reissued under the '137 Patent on December 25, 2007.

VI. COUNT ONE – THE '988 PATENT

83. The allegations of paragraphs 1-82 above are incorporated by reference as if fully set forth herein.

84. The Defendants have been and are infringing the '988 Patent by making, using, selling, and/or offering for sale in the United States products and services that fall within the scope of the claims of the '988 Patent, including the Accused Instrumentalities. Such infringement is direct, contributory, and/or by inducement.

A. Direct Infringement of the '988 Patent

85. Defendants directly infringe the '988 Patent by making, using, selling, and/or offering to sale infringing systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities. Defendants make, use, sell, and/or offer to sell these systems and methods to capture images of paper checks and process those checks using the electronic images.

86. Specifically Defendant Fiserv directly infringes the '988 Patent by making, using, selling, and/or offering to sell systems and methods for image-based check processing such as the Fiserv Accused Instrumentalities. By way of example only, and without limitation, Defendant Fiserv infringes, literally and/or under the doctrine of equivalents, at least claim 1 of the '988 Patent by making, using, selling, and/or offering to sell systems and methods such as the Fiserv Accused Instrumentalities.

87. Further and in the alternative, DataTreasury contends that Defendant CSPI directly infringes the '988 Patent by making, using, selling, and/or offering to sell systems and methods for image-based check processing such as the CSPI Accused Instrumentalities. By way of example only, and without limitation, Defendant CSPI infringes, literally and/or under the doctrine of equivalents, at least claim 1 of the '988 Patent by making, selling, and/or offering to sell systems and methods such as the CSPI Accused Instrumentalities.

88. Further and in the alternative, the Banking Defendants directly infringe the '988 Patent by making, using, selling, and/or offering to sell infringing systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities. By way of example only and without limitation, upon information and belief, DataTreasury contends that Banking Defendants Citizens Bank and/or Gladewater National Bank make, use, sell, or offer to sell one or more of the CSPI Accused Instrumentalities. By way of example only and without limitation, upon information and belief, DataTreasury contends that the rest of the Banking Defendants make, use, sell, or offer to sell one or more of the Fiserv Accused Instrumentalities. By way of example only, and without limitation, the Banking Defendants infringe, literally and/or under the doctrine of equivalents, at least claim 1 of the '988 Patent by making, using, selling, and/or offering to sell systems and methods such as the Accused Instrumentalities.

B. Contributory Infringement of the '988 Patent

89. Further and in the alternative and in addition to the direct infringement described above, each Defendant is liable for contributory infringement of the '988 Patent. Defendants knowingly contribute to infringement of the '988 Patent by making, using, selling, or offering for

sale components of systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities.

90. DataTreasury contends that Defendant Fiserv is liable for contributory infringement of the '988 Patent. Defendant Fiserv makes, uses, sells and/or offers for sale components of systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities. These components have no substantial non-infringing uses, and they constitute a material part of the invention. Defendant Fiserv was aware of the '988 Patent because of its involvement in prior litigation with DataTreasury. Defendant Fiserv was also aware of the '988 Patent because of general and industry-specific media coverage and industry meetings and seminars. Defendant Fiserv is also aware that the components of the systems and methods for image-based check processing satisfy at least one element of one claim, such as by way of example claim 1, of the '988 Patent. Defendant Fiserv further knows that use of the components as part of the systems and methods directly infringe at least one claim, such as by way of example claim 1, of the '988 Patent.

91. Further and in the alternative, DataTreasury contends that Defendant CSPI is liable for contributory infringement of the '988 Patent. Defendant CSPI makes, uses, sells, and/or offers for sale components of systems and methods for image-based check processing, such as by way of example the CSPI Accused Instrumentalities. These components have no substantial non-infringing uses, and they constitute a material part of the invention. DataTreasury contends that Defendant CSPI was aware of the '988 Patent because of general and industry-specific media coverage and industry meetings and seminars. Defendant CSPI is also aware that the components of the systems and methods for image-based check processing satisfy at least one element of one claim, such as by way of example claim 1, of the '988 Patent. Defendant

CSPI further knows that use of the components as part of the systems and methods directly infringe at least one claim, such as by way of example claim 1, of the '988 Patent.

92. Further and in the alternative, DataTreasury contends that the Banking Defendants are liable for contributory infringement of the '988 Patent. The Banking Defendants sell and/or offer for sale components of systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities. By way of example only and without limitation, upon information and belief, DataTreasury contends that Banking Defendants Citizens Bank and/or Gladewater National Bank use, sell, or offer to sell one or more components of one or more of the CSPI Accused Instrumentalities. By way of example only and without limitation, upon information and belief, DataTreasury contends that the rest of the Banking Defendants use, sell, or offer to sell one or more components of one or more of the Fiserv Accused Instrumentalities. These components have no substantial non-infringing uses, and they constitute a material part of the invention. Upon information and belief, DataTreasury contends that the Banking Defendants were aware of the '988 Patent because of general media coverage, banking industry publications that followed DataTreasury and its prior litigation, communications with prior defendants involved in DataTreasury litigation, communications with Defendant Fiserv prior to commencement of the current litigation, publicly available documents such as those available at the United States Patent Office and/or in the public records of DataTreasury's prior litigation, and/or information discussed at industry meetings, seminars, and/or conventions. The Banking Defendants are also aware that the components of the systems and methods for image-based check processing satisfy at least one element of one claim, such as by way of example claim 1, of the '988 Patent. The Banking Defendants further know that use

of the components as part of the systems and methods directly infringe at least one claim, such as by way of example claim 1, of the '988 Patent.

C. Inducement of Infringement of the '988 Patent

93. Further and in the alternative, Defendants have knowingly induced infringement of the '988 Patent. Defendants induced such infringement through their making, using, selling, and/or offering to sell systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities.

94. DataTreasury contends that Defendant Fiserv is liable for inducement infringement of the '988 Patent. Defendant Fiserv has intentionally caused, urged, encouraged, or aided action that induced infringement, including direct infringement, of the '988 Patent by others, namely the Banking Defendants. Such intentional action was and is the selling and/or offering for sale systems and methods for image-based check processing, such as by way of example the Fiserv Accused Instrumentalities. As a result of its conduct, Defendant Fiserv induced its customers such as the Banking Defendants and the Banking Defendants' customers to use systems and methods such as the Fiserv Accused Instrumentalities to infringe the claims of the '988 Patent, by way of example at least claim 1. Additionally and in the alternative, Defendant Fiserv induced the Banking Defendants and the Banking Defendants' customers to perform additional steps using systems and methods such as the Fiserv Accused Instrumentalities to infringe the method claims of the '988 Patent such as by way of example at least claim 26. Defendant Fiserv engaged in this conduct while it was aware of the '988 Patent as discussed in this Complaint. Because of its knowledge of the '988 Patent and its prior involvement in litigation with DataTreasury, Defendant Fiserv knew the acts it was inducing would infringe the '988 Patent.

95. Further and in the alternative, DataTreasury contends that Defendant CSPI is liable for inducement infringement of the '988 Patent. Defendant CSPI has intentionally caused, urged, encouraged, or aided action that induced infringement, including direct infringement, of the '988 Patent by others, including without limitation, Defendants Citizens Bank and/or Gladewater National Bank. Such intentional action was and is the selling and/or offering for sale systems and methods for image-based check processing, such as by way of example the CSPI Accused Instrumentalities. As a result of its conduct, Defendant CSPI induced its customers such as the above-noted Banking Defendants and the Banking Defendants' customers to use systems and methods such as the CSPI Accused Instrumentalities to infringe the claims of the '988 Patent, by way of example at least claim 1. Additionally and in the alternative, Defendant CSPI induced the above-noted Banking Defendants and the Banking Defendants' customers to perform additional steps using systems and methods such as the CSPI Accused Instrumentalities to infringe the method claims of the '988 Patent such as by way of example at least claim 26. Defendant CSPI engaged in this conduct while it was aware of the '988 Patent as discussed in this Complaint. Because of its knowledge of the '988 Patent and/or as a result of this lawsuit, Defendant CSPI knew the acts it was inducing would infringe the '988 Patent.

96. Further and in the alternative, DataTreasury contends that the Banking Defendants are liable for inducement of infringement of the '988 Patent. The Banking Defendants have intentionally caused, urged, encouraged, or aided action that induced infringement, including direct infringement, of the '988 Patent by others, namely the use of image-based check processing systems and methods such as the Accused Instrumentalities by the Banking Defendants' customers and/or the sale of image-based check processing system and methods such as the Fiserv and CSPI Accused Instrumentalities. Such intentional action was and

is causing, urging, encouraging, and/or aiding use of the Accused Instrumentalities by customers, and selling and/or offering for sale the Accused Instrumentalities to customers. Further and in the alternative, such intentional action was and is purchasing and/or offering to purchase from Defendants Fiserv and/or CSPI the systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities. As a result of its conduct, the Banking Defendants induced their customers to use systems and methods such as the Accused Instrumentalities to infringe the claims of the '988 Patent, by way of example at least claim 1. Additionally and in the alternative, the Banking Defendants induced Defendants Fiserv and/or CSPI to sell systems and methods such as the Accused instrumentalities, which infringe the claims of the '988 Patent, by way of example at least claim 1. Additionally and in the alternative, the Banking Defendants induced their customers and/or induced Defendants Fiserv and/or CSPI to carry out additional steps using systems and methods such as the Accused Instrumentalities to infringe the method claims of the '988 Patent, by way of example at least claim 26. The Banking Defendants engaged in this conduct while they were aware of the '988 Patent as discussed elsewhere in this Complaint. Because of its knowledge of the '988 Patent and/or as a result of this lawsuit, the Banking Defendants knew the acts they were inducing would infringe the '988 Patent.

97. Unless the Defendants are enjoined by this Court, DataTreasury is without an adequate remedy at law.

D. Joint Infringement of the '988 Patent

98. Further and in the alternative, DataTreasury contends that Defendants have committed the above-described acts of direct infringement, contributory infringement, and/or inducement of infringement jointly. DataTreasury contends that as a result of such joint

infringement, Defendants are jointly and severally liable for the infringing acts engaged in by each other.

99. DataTreasury contends that Defendants Fiserv and/or CSPI are responsible for joint infringement because through its contractual obligations and instructions to the Banking Defendants, they directed and controlled the Banking Defendants infringing conduct.

100. Further and in the alternative, DataTreasury contends that the Banking Defendants are responsible for joint infringement because through their contractual obligations and instructions to Defendants Fiserv and/or CSPI, the Banking Defendants directed and controlled Defendants Fiserv's and/or CSPI's infringing conduct.

VII. COUNT TWO – THE '137 PATENT

101. The allegations of paragraphs 1-100 above are incorporated by reference as if fully set forth herein.

102. The Defendants have been and are infringing the '137 Patent by making, using, selling, and/or offering for sale in the United States products and services that fall within the scope of the claims of the '137 Patent, including the Accused Instrumentalities. Such infringement is direct, contributory, and/or by inducement.

A. Direct Infringement of the '137 Patent

103. Defendants directly infringe the '137 Patent by making, using, selling, and/or offering to sale infringing systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities. Defendants make, use, sell, and/or offer to sell these systems and methods to capture images of paper checks and process those checks using the electronic images.

104. Specifically Defendant Fiserv directly infringes the '137 Patent by making, using, selling, and/or offering to sell systems and methods for image-based check processing such as the Fiserv Accused Instrumentalities. By way of example only, and without limitation, Defendant Fiserv infringes, literally and/or under the doctrine of equivalents, at least claim 42 of the '137 Patent by making, using, selling, and/or offering to sell systems and methods such as the Fiserv Accused Instrumentalities.

105. Further and in the alternative, DataTreasury contends that Defendant CSPI directly infringes the '137 Patent by making, using, selling, and/or offering to sell systems and methods for image-based check processing such as the CSPI Accused Instrumentalities. By way of example only, and without limitation, Defendant CSPI infringes, literally and/or under the doctrine of equivalents, at least claim 42 of the '137 Patent by making, using, selling, and/or offering to sell systems and methods such as the CSPI Accused Instrumentalities.

106. Further and in the alternative, the Banking Defendants directly infringe the '137 Patent by making, using, selling, and/or offering to sell infringing systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities. By way of example only and without limitation, upon information and belief, DataTreasury contends that Banking Defendants Citizens Bank and/or Gladewater National Bank make, use, sell, or offer to sell one or more of the CSPI Accused Instrumentalities. By way of example only and without limitation, upon information and belief, DataTreasury contends that the rest of the Banking Defendants make, use, sell, or offer to sell one or more of the Fiserv Accused Instrumentalities. By way of example only, and without limitation, the Banking Defendants infringe, literally and/or under the doctrine of equivalents, at least claim 42 of the '137 Patent by

making, using, selling, and/or offering to sell systems and methods such as the Accused Instrumentalities.

B. Contributory Infringement of the '137 Patent

107. Further and in the alternative and in addition to the direct infringement described above, each Defendant is liable for contributory infringement of the '137 Patent. Defendants knowingly contribute to infringement of the '137 Patent by making, using, selling, or offering for sale components of systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities.

108. DataTreasury contends that Defendant Fiserv is liable for contributory infringement of the '137 Patent. Defendant Fiserv makes, uses, sells and/or offers for sale components of systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities. These components have no substantial non-infringing uses, and they constitute a material part of the invention. Defendant Fiserv was aware of the '137 Patent because of its involvement in prior litigation with DataTreasury. Defendant Fiserv was also aware of the '137 Patent because of general and industry-specific media coverage and industry meetings and seminars. Defendant Fiserv is also aware that the components of the systems and methods for image-based check processing satisfy at least one element of one claim, such as by way of example claim 42, of the '137 Patent. Defendant Fiserv further knows that use of the components as part of the systems and methods directly infringe at least one claim, such as by way of example claim 42, of the '137 Patent.

109. Further and in the alternative, DataTreasury contends that Defendant CSPI is liable for contributory infringement of the '137 Patent. Defendant CSPI makes, uses, sells, and/or offers for sale components of systems and methods for image-based check processing,

such as by way of example the CSPI Accused Instrumentalities. These components have no substantial non-infringing uses, and they constitute a material part of the invention. DataTreasury contends that Defendant CSPI was aware of the '988 Patent because of general and industry-specific media coverage and industry meetings and seminars. Defendant CSPI is also aware that the components of the systems and methods for image-based check processing satisfy at least one element of one claim, such as by way of example claim 42, of the '137 Patent. Defendant CSPI further knows that use of the components as part of the systems and methods directly infringe at least one claim, such as by way of example claim 42, of the '137 Patent.

110. Further and in the alternative, DataTreasury contends that the Banking Defendants are liable for contributory infringement of the '137 Patent. The Banking Defendants sell and/or offer for sale components of systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities. By way of example only and without limitation, upon information and belief, DataTreasury contends that Banking Defendants Citizens Bank and/or Gladewater National Bank use, sell, or offer to sell one or more components of one or more of the CSPI Accused Instrumentalities. By way of example only and without limitation, upon information and belief, DataTreasury contends that the rest of the Banking Defendants use, sell, or offer to sell one or more components of one or more of the Fiserv Accused Instrumentalities. These components have no substantial non-infringing uses, and they constitute a material part of the invention. Upon information and belief, DataTreasury contends that the Banking Defendants were aware of the '137 Patent because of general media coverage, banking industry publications that followed DataTreasury and its prior litigation, communications with prior defendants involved in DataTreasury litigation, communications with Defendant Fiserv prior to commencement of the current litigation, publicly available documents

such as those available at the United States Patent Office and/or in the public records of DataTreasury's prior litigation, and/or information discussed at industry meetings, seminars, and/or conventions. The Banking Defendants are also aware that the components of the systems and methods for image-based check processing satisfy at least one element of one claim, such as by way of example claim 42, of the '137 Patent. The Banking Defendants further know that use of the components as part of the systems and methods directly infringe at least one claim, such as by way of example claim 42 of the '137 Patent.

C. Inducement of Infringement of the '137 Patent

111. Further and in the alternative, Defendants have knowingly induced infringement of the '137 Patent. Defendants induced such infringement through their making, using, selling, and/or offering to sell systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities.

112. DataTreasury contends that Defendant Fiserv is liable for inducement infringement of the '137 Patent. Defendant Fiserv has intentionally caused, urged, encouraged, or aided action that induced infringement, including direct infringement, of the '137 Patent by others, namely the Banking Defendants. Such intentional action was and is the selling and/or offering for sale systems and methods for image-based check processing, such as by way of example the Fiserv Accused Instrumentalities. As a result of its conduct, Defendant Fiserv induced its customers such as the Banking Defendants and the Banking Defendants' customers to use systems and methods such as the Fiserv Accused Instrumentalities to infringe the claims of the '137 Patent, by way of example at least claim 42. Additionally and in the alternative, Defendant Fiserv induced the Banking Defendants and the Banking Defendants' customers to perform additional steps using systems and methods such as the Fiserv Accused Instrumentalities

to infringe the method claims of the '137 Patent such as by way of example at least claim 43. Defendant Fiserv engaged in this conduct while it was aware of the '137 Patent as discussed in this Complaint. Because of its knowledge of the '137 Patent and its prior involvement in litigation with DataTreasury, Defendant Fiserv knew the acts it was inducing would infringe the '137 Patent.

113. Further and in the alternative, DataTreasury contends that Defendant CSPI is liable for inducement infringement of the '137 Patent. Defendant CSPI has intentionally caused, urged, encouraged, or aided action that induced infringement, including direct infringement, of the '137 Patent by others, including without limitation, Defendants Citizens Bank and/or Gladewater National Bank. Such intentional action was and is the selling and/or offering for sale systems and methods for image-based check processing, such as by way of example the CSPI Accused Instrumentalities. As a result of its conduct, Defendant CSPI induced its customers such as the above-noted Banking Defendants and the Banking Defendants' customers to use systems and methods such as the CSPI Accused Instrumentalities to infringe the claims of the '137 Patent, by way of example at least claim 42. Additionally and in the alternative, Defendant CSPI induced the above-noted Banking Defendants and the Banking Defendants' customers to perform additional steps using systems and methods such as the CSPI Accused Instrumentalities to infringe the method claims of the '137 Patent such as by way of example at least claim 42. Defendant CSPI engaged in this conduct while it was aware of the '137 Patent as discussed in this Complaint. Because of its knowledge of the '137 Patent and/or as a result of this lawsuit, Defendant CSPI knew the acts it was inducing would infringe the '137 Patent.

114. Further and in the alternative, DataTreasury contends that the Banking Defendants are liable for inducement of infringement of the '137 Patent. The Banking

Defendants have intentionally caused, urged, encouraged, or aided action that induced infringement, including direct infringement, of the '137 Patent by others, namely the use of image-based check processing systems and methods such as the Accused Instrumentalities by the Banking Defendants' customers and/or the sale of image-based check processing system and methods such as the Fiserv and CSPI Accused Instrumentalities. Such intentional action was and is causing, urging, encouraging, and/or aiding use of the Accused Instrumentalities by customers, and selling and/or offering for sale the Accused Instrumentalities to customers. Further and in the alternative, such intentional action was and is purchasing and/or offering to purchase from Defendants Fiserv and/or CSPI the systems and methods for image-based check processing, such as by way of example the Accused Instrumentalities. As a result of its conduct, the Banking Defendants induced their customers to use systems and methods such as the Accused Instrumentalities to infringe the claims of the '137 Patent, by way of example at least claim 42. Additionally and in the alternative, the Banking Defendants induced Defendants Fiserv and/or CSPI to sell systems and methods such as the Accused instrumentalities, which infringe the claims of the '137 Patent, by way of example at least claim 42. Additionally and in the alternative, the Banking Defendants induced their customers and/or induced Defendants Fiserv and/or CSPI to carry out additional steps using systems and methods such as the Accused Instrumentalities to infringe the method claims of the '137 Patent, by way of example at least claim 43. The Banking Defendants engaged in this conduct while they were aware of the '137 Patent as discussed elsewhere in this Complaint. Because of its knowledge of the '137 Patent and/or as a result of this lawsuit, the Banking Defendants knew the acts they were inducing would infringe the '137 Patent.

115. Unless the Defendants are enjoined by this Court, DataTreasury is without an adequate remedy at law.

D. Joint Infringement of the '137 Patent

116. Further an in the alternative, DataTreasury contends that Defendants have committed the above-described acts of direct infringement, contributory infringement, and/or inducement of infringement jointly. DataTreasury contends that as a result of such joint infringement, Defendants are jointly and severally liable for the infringing acts engaged in by each other.

117. DataTreasury contends that Defendants Fiserv and/or CSPI are responsible for joint infringement because through its contractual obligations and instructions to the Banking Defendants, they directed and controlled the Banking Defendants infringing conduct.

118. Further and in the alternative, DataTreasury contends that the Banking Defendants are responsible for joint infringement because through their contractual obligations and instructions to Defendants Fiserv and/or CSPI, the Banking Defendants directed and controlled Defendants Fiserv's and/or CSPI's infringing conduct.

VIII. WILLFULNESS

119. The Defendants' infringement of the '988 Patent and the '137 Patent has been and is willful. Each Defendant listed herein has had notice and knowledge of the DTC patents and their infringement of the patents for years, including by way of the public notice set forth in paragraphs 1-9. Upon information and belief, the Defendants have known for years about the Ballard Patents and their affirmation in re-examination, success in court, and multiple consent judgments and licenses through the widespread press coverage, industry organization meetings, and/or Congressional activities discussed herein.

120. Additionally, Defendant Fiserv has been involved in repeated litigation with DataTreasury, in which the Ballard Patents were asserted. In those actions, Defendant Fiserv indemnified and defended its customer banks. While acting on behalf of its customer who used the same or similar systems as those at issue in this action, Defendant Fiserv obtained licenses to the Ballard Patents on behalf of its customers and repeatedly had an opportunity to purchase a license that would inure to the benefit of Defendant Fiserv and all of its customers. Defendant Fiserv was also aware of the '988 and '137 Patents because of general and industry-specific media coverage and industry meetings and seminars. Through those interactions, Defendant Fiserv became well-aware of how its systems and methods, such as the Accused Instrumentalities infringed the Ballard Patents, yet it continued to make, use, sell, and/or offer for sell those systems and methods.

121. Defendants engaged in the above described conduct despite a high likelihood that their actions infringed the '988 Patent and/or the '137 Patent. Further Defendants knew or should have known that their actions constituted a high risk of infringement of the '988 Patent and/or the '137 Patent.

IX. VICARIOUS LIABILITY

122. The allegations of paragraphs 1-121 above are incorporated by reference as if fully set forth herein.

123. In addition to liability for their own independent conduct, the Defendants are also liable for the conduct of their subsidiaries, affiliates, and related entities under the doctrines of alter ego and single business enterprise, and under applicable state and federal statutes and regulations. Specifically, each parent company or holding company entity identified herein is

the alter ego of its operating entity Defendant identified herein. For example, they have common stock ownership (i.e., parent companies owning all stock of the operating subsidiaries), common directors and officers, common business departments and headquarters; the parent or holding company finances and pays the expenses of the subsidiary; and the daily operations, board meetings, books and/or records of the two companies are not kept separate.

124. Further and in the alternative, Defendants are liable for infringement committed by their subsidiaries, affiliates, and related entities under the doctrine of joint infringement. Specifically, each parent company or holding company entity identified herein directs and controls the conduct of its subsidiaries, affiliates, and related entities to the extent that they are jointly responsible for any infringement, whether infringement be direct infringement, contributory infringement, or inducement of infringement as alleged above.

X. DAMAGES

125. The allegations of paragraphs 1-124 above are incorporated by reference as if fully set forth herein.

126. For the above-described infringement, DataTreasury has been injured and seeks damages to adequately compensate it for Defendants' infringement of the Ballard Patents. Such damages should be no less than the amount of a reasonable royalty under 35 U.S.C. § 284.

127. DataTreasury contends that Defendants willfully infringed the Ballard Patents. DataTreasury requests that the Court enter a finding of willful infringement and enhanced damages under 35 U.S.C. § 284 up to three times the amount found by the trier of fact.

128. DataTreasury further requests that the Court enter an order finding that this is an exceptional case within the meaning of 35 U.S.C. §285. Pursuant to such an order DataTreasury seeks recovery of its reasonable attorneys' fees and expenses.

XI. JURY DEMAND

129. The allegations of paragraphs 1-128 above are incorporated by reference as if fully set forth herein.

130. DataTreasury requests a jury trial for all issues triable to a jury.

XII. PRAYER FOR RELIEF

131. The allegations of paragraphs 1-130 above are incorporated by reference as if fully set forth herein.

132. DataTreasury respectfully requests the following relief:

A. That the Court declare that the '988 and '137 Patents are valid and enforceable and that they are infringed by Defendants as described herein;

B. That the Court enter a permanent injunction against Defendants' direct infringement of the '988 and '137 Patents;

C. That the Court enter a permanent injunction against Defendants' active inducement of infringement and/or contributory infringement of the '988 and '137 Patents among themselves and by others;

D. That the Court award damages of no less than a reasonable royalty to DataTreasury to which it is entitled for patent infringement;

E. That the Court award pre-judgment and post-judgment interest on the damages to DataTreasury;

F. That the Court treble all damages and interest for willful infringement;

G. That the Court award to DataTreasury its costs and attorneys' fees incurred in this action; and

H. Such other and further relief as the Court deems just and proper.

Respectfully submitted,



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**ATTORNEYS FOR PLAINTIFF
DATATREASURY CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been delivered to all counsel of record via the Court's CM/ECF system on this 10th day of December, 2013.

